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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,483	04/19/2001	Hiroyuki Oka	K-1973	9920

7590 01/15/2003

KANESAKA AND TAKEUCHI  
1423 Powhatan Street  
Alexandria, VA 22314

EXAMINER

KING, BRADLEY T

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/837,483

Applicant(s)

OKA ET AL.

Examiner

Bradley T King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 October 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 4-8, 12, 19 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 18 and 20 is/are rejected.
- 7) ☒ Claim(s) 9-11, 13-17, 22 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 4-8, 12, 19, 20 depending from claim 19 (MPEP 608.1(n)(C)) and 21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Objections***

Claims 9-11, 13-17 and 22-23 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple independent claim. See MPEP § 608.01(n). Accordingly, the claims 9-11, 13-17 and 22-23 have not been further treated on the merits.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3, 18 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "in braking maneuver" several times throughout the claim. The limitation is confusing and it is unclear whether the further recitations refer to the same braking maneuver.

Claim 1 recites "the discharge pressure". There is insufficient antecedent basis for this limitation in the claims.

Claim 1 recites "the operational condition". There is insufficient antecedent basis for this limitation in the claims.

Claim 20 recites "said braking force control device controls such that". This limitation is awkward and it is unclear what the braking force device controls.

Claim 20 recites "another braking different from said service braking". It is unclear if this is the same "braking" recited in claim 1 or a different braking.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 18 and 20 (from claim 18) are rejected under 35 U.S.C. 102(b) as being anticipated by Schunck et al (WO97/23373).

Schunck et al disclose all the limitations of the instant claims including: a master cylinder 110 having an input shaft which travels according to travel of an operational member 100 for braking maneuver, a master cylinder pressure chamber, and a master cylinder piston which develops master cylinder pressure in the master cylinder pressure chamber according to the travel of the input shaft (the structure is inherent to master cylinders), a pump 190 which is driven in a braking maneuver, a brake force control device which controls, in braking maneuver, the discharge pressure of the pump according to at least either the operational condition for service braking or the operational condition for another braking different from the service braking, and a travel modulating device 125 which modulates the travel of the operational member in braking maneuver by using the discharge pressure of the pump controlled by the brake force control device.

Regarding claim 20, see figure 2. The system is capable of controlling the discharge pressure of the pump to be a plurality of different values, some greater and some lesser than others.

Claims 1-3, 18 and 20 (from claim 18) are rejected under 35 U.S.C. 102(b) as being anticipated by Siebert et al (US# 4730877).

Siebert et al disclose all the limitations of the instant claims including: a master cylinder 1 having an input shaft which travels according to travel of an operational member 22 for braking maneuver, a master cylinder pressure chamber (18-19), and a master cylinder piston (23-24) which develops master cylinder pressure in the master

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cylinder pressure chamber according to the travel of the input shaft (the structure is inherent to master cylinders), a pump 10 which is driven in a braking maneuver, a brake force control device which controls, in braking maneuver, the discharge pressure of the pump according to at least either the operational condition for service braking or the operational condition for another braking different from the service braking, and a travel modulating device 37 which modulates the travel of the operational member in braking maneuver by using the discharge pressure of the pump controlled by the brake force control device.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Klein et al, Otomo et al, Ganzel, Schunck et al (US equiv. of WO97/23373), Heubner, Gaillard, and JP 2001-322539. All show braking systems with stroke simulators.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley T King whose telephone number is (703) 308-8346. The examiner can normally be reached on 11:00-7:30 M-F.

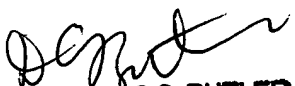
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

BTK  
January 7, 2003

  
DOUGLAS C. BUTLER  
PRIMARY EXAMINER  
1/12/03  
AU 3683